

Also in his address to NOAA, the President committed to a strategy of cutting greenhouse gas (GHG) emissions and tackling climate change. While not admitting that scientific evidence adequately establishes a link between GHGs and global warming, the President proposed increased research into the causes of climate change. He also proposed a gradual and cautious approach to reducing GHG emissions.

Similar to the approach embodied in the Clear Skies Initiative, the Administration's Global Climate Change proposal is founded on the overriding necessity of protecting the economy. In this regard, the reductions in GHG emissions would be tied to the gross domestic product (GDP). The initiative would reduce GHG emissions from approximately 183 metric tons per million dollars of GDP in 2002 to 151 metric tons per million dollars of GDP in 2012. The GHG reduction program would be voluntary for now. Industries and utilities would be encouraged to participate in the program and would be given credit for their reductions if and when emissions cuts become mandatory under what the President envisions as a GHG emissions cap-and-trade program.

Other features of the Global Climate Change Initiative include 1) increased funding of climate-change related research, 2) tax credits for renewable energy sources, 3) improvements in the Nation's registry of voluntary GHG emissions reductions, 4) development of more fuel-efficient vehicles, 5) sequestration of GHGs through domestic agricultural conservation programs and more effective international protection of forests, and 6) increased U.S. support of international programs for reducing GHGs.

While adamantly maintaining that the Kyoto Protocol for reducing global GHG gas emissions is flawed, the President emphasized that he is not attacking this agreement, supported by the Clinton Administration and ratified by about 50 nations. Rather, he claims to be proposing a better alternative — one that would tie every nation's greenhouse gas emissions reduction obligation to its GDP.

- David Cabe and Julian Levy
Zephyr Environmental Corporation

Zephyr's Julian Levy, Chairman of this year's national conference of the Air & Waste Management Association, reports that it is shaping up as a truly superlative event. The conference, to be held in Baltimore (June 23 - 27), will be greatly expanded in scope this year and will include many new touches. For more information, visit www.awma.org or contact Julian at jlevy@zephyrenv.com or 410.312.7913.

We would like to hear from you! Please email your comments to currents@zephyrenv.com or send them online at www.zephyrenv.com.

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Ecological Risk Assessment. Since EPA published its *Framework for Ecological Risk Assessment* in 1992, the science of risk assessment has been pushed to include a comprehensive consideration of ecological receptors in addition to human receptors. The *Framework* defines "ecological receptors" as "plants, animals, or communities of plants and animals." Most often an ecological risk assessment (ERA) consists of an evaluation of the adverse ecological effects posed by residual chemical contamination of soil, air, and water. The EPA and many states are now requiring ERAs of corrective action sites. EPA has published interim final guidance for conducting ERAs at sites. *This article is continued at www.zephyrenv.com.*

Update on the EMS Measures that TNRCC is considering. TNRCC's Environmental Management System (EMS) Evaluation Program is "Open for Business." That statement was made by TNRCC's Ken Zarker during a Texas EMS Stakeholders meeting on March 20. TNRCC personnel are currently developing the protocol for TNRCC and non-TNRCC evaluators to use during facility EMS evaluations. The TNRCC expects to bring proposed incentives to the Commissioners for approval by early summer. Facilities that wish to obtain recognition and incentives should be developing and implementing an EMS that conforms to the Texas EMS Rule now. *This article is continued at www.zephyrenv.com.*

President Unveils Plan to Clear the Skies and Reduce Global Warming

Clear skies, multipollutant controls, global warming, greenhouse gases, energy policy, and gross domestic product. What do all these increasingly familiar buzzwords have in common? According to the President in his February 14 address to the National Oceanic and Atmospheric Administration (NOAA), they are all components of the Administration's latest proposals for cleaning the air and arresting global warming. The President's comprehensive environmental legislation, called the "Clear Skies Initiative" would attempt to bring order out of the chaos created by a handful of Congressional bills aimed at tightening emissions controls and simplifying the air pollution permitting process. Closely tied to the "Clear Skies Initiative" is the President's "Global Climate Change Initiative" also unveiled on February 14. This plan, if enacted, would attack global warming on a number of fronts, with global economics as the primary driving force.

What does the Administration hope to achieve with the Clean Skies Initiative? The primary goals are to protect and prolong the lives of Americans suffering from asthma, respiratory illnesses and heart disease, and to reduce in-utero risks. These goals would be reached through massive reductions in the emissions of SO₂, NO_x, and mercury from power plants. Under the proposed plan, the emissions cuts, in the range of 70% for each pollutant, would be achieved by 2018.

Central to the plan is the President's belief that economic growth should not be

sacrificed for the sake of environmental gains. Rather, he asserted in his address that "economic growth is the key to environmental progress, because it is growth that provides the resources." Eschewing a traditional "command and control" approach, the President has proposed a market-based system for capping and trading pollutant emissions, leaving it up to the individual utilities to come up with the most economical methods for meeting the broad national emissions reduction goals. Permits would be required for all power plants, which would be given the flexibility to bank and trade the permitted emissions to stay below the Federally mandated caps.

In addition to the positive effects on public health and welfare, the President believes the initiative will eliminate what he calls a "confusing, ineffective maze of regulations for power plants that has created an endless cycle of litigation". Likely casualties of the Clean Skies Initiative would be major portions of the Byzantine Federal New Source Review (NSR) permitting and enforcement programs. Industry advocates have long maintained that the way in which EPA enforces rules enacted under these programs penalizes utilities for performing necessary maintenance by requiring costly new permits and emissions control upgrades. Under the Clear Skies Initiative, utilities would have significantly more flexibility in making such changes under existing permits.



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f e d e r a l n e w s

TNRCC Commissioners Rethink Houston-Galveston Ozone Control Strategy. As a result of findings from the recent Texas Air Quality Study 2000, TNRCC is rethinking its ozone control strategy for the Houston-Galveston nonattainment area. Work done under the study has dramatically increased the understanding of area ozone pre-cursor sources, transport, formation, and prediction. Based on these developments, the TNRCC is now looking to control more VOC emissions at Houston-Galveston facilities and may ease the current SIP control requirements for No_x emissions. The Commission has begun modeling to determine the appropriate control levels that will need to be incorporated into rulemaking. Contact Dick Smullen at rsmullen@zephyrenv.com or 713.977.8787 for the latest developments or further information.

TNRCC Now Looks at Compliance History in Permit Reviews. Phase I of HB2912 requires the TNRCC to establish a basis for evaluating environmental compliance histories of subject companies. Phase II requires the TNRCC to establish a set of standards a company's compliance history and to provide for the use of compliance history classification in certain Commission decisions by September 1, 2002. Phase II of the proposal is scheduled for the Commission Agenda in late March 2002, with the public comment period scheduled to begin April 1. The TNRCC intends to include the ratings established during Phase II in the Consolidated Compliance and Enforcement Data System (CCEDS). There are no plans to include compliance history documents on the web site. For more information, contact Kimberly Brandt at kbrandt@zephyrenv.com or 512.329.5544.

TNRCC Adds Permits by Rule Recordkeeping Requirements. The TNRCC recently incorporated a new section into the existing Permits by Rule (PBR) chapter of the Texas Administrative Code. The new section will require facilities that operate PBR-authorized units to maintain additional records that will be used to demonstrate compliance with general emission limits and individual PBR operating limits. The records must be maintained on a rolling 12-month basis and be retained for two to five years, depending on the classification of the site. This rule will affect existing facilities currently operating under PBR. For more information, contact Kevin Ellis at

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U.S. Court upholds Ozone and $\text{PM}_{2.5}$ NAAQS. In a unanimous decision, a Federal appeals court ruled on March 26 that EPA did not exceed its authority in issuing new ambient standards for ozone and particle matter in 1997. This decision is not expected to be appealed, because the Supreme Court ruled on it last year. EPA Administrator Christine Whitman said her agency would support the new regulations, which had been opposed by industry as being unfounded by science and too costly. These new regulations will result in some areas previously classified attainment being redesignated non-attainment. For more information, contact Bill Jones at wjones@zephyrenv.com or 410.312.7910.

Long-term exposures to air pollution increases risk of lung cancer and cardiopulmonary death. Long-term exposure to airborne fine particulate matter is an important environmental risk factor for lung cancer death and cardiopulmonary death, according to an article in the March 6 issue of the *Journal of the American Medical Association*. The article correlates day-to-day particulate air pollution levels to increased risk of various adverse health outcomes, including cardiopulmonary mortality. However, studies of health effects of long-term particulate air pollution have been less conclusive. The article reports that "Each 10- μg [per cubic meter of air] elevation in fine particulate air pollution is associated with approximately a 4%, 6%, and 8% increased risk of all-cause, cardiopulmonary, and lung cancer mortality, respectively." For more information, contact Joe Zupan at jzupan@zephyrenv.com or 512.329.5544.

EPA's Enforcement Head Resigns. Eric Schaeffer resigned as Director of EPA's Office of Regulatory Enforcement on February 27. In his letter of resignation to EPA Administrator Christine Whitman, Schaeffer charged the Bush Administration with weakening EPA's negotiating position on enforcement actions by creating confusion over possible Clean Air Act rule changes and by proposing enforcement program budget cuts. In further statements, Schaeffer said environmental enforcement would be more effective under the current law than under the Administration's new proposal. The resignation, in part, sparked an investigation of White House's environmental policies by the Senate Governmental Affairs Committee. For more information, contact Roger Brower at rbrower@zephyrenv.com or 410.312.7907.

Interim Standards for Hazardous Waste Combustors. On September 30, 1999, EPA issued standards to control emissions of hazardous air pollutants from incinerators, cement kilns, and lightweight aggregate kilns that burn hazardous wastes. In response to judicial review of this rule, EPA has developed interim standards, thereby avoiding the need to develop requirements for facilities on a site-by-site basis. All hazardous waste combustors must comply with the interim standards by September 30, 2003. The interim standards must be in effect until EPA issues "replacement" standards (required to be promulgated by June 14, 2005). For more information, contact Dave Sorrels at dsorrels@zephyrenv.com or 512.329.5544.

MACT Hammer. On March 5, EPA Administrator Whitman signed a final rule that delays implementation of the MACT hammer for 2 years. The MACT hammer, which was to be implemented on May 15, would have penalized subject industrial facilities if EPA missed a deadline for promulgating a MACT standard. A facility caught in this situation would have had to undergo the expensive and time-consuming process of developing a case-by-case MACT standard. With EPA's extension now in place, only general information is due to EPA on May 15, with more detailed information not required until May 15, 2004. Court challenges are expected. For more information, contact Bill Jones at wjones@zephyrenv.com or 410.312.7910.

EPA Achieves Significant Compliance and Enforcement Progress in 2001. EPA reports that its enforcement and compliance assurance programs required violators to invest a record-setting expenditure of \$4.3 billion in pollution controls and environmental cleanup. These programs also secured commitments for reducing 660 million pounds of harmful pollutants, as well as the treatment and safe management of an estimated record 1.84 billion pounds of pollutants. Additionally, a vigorous criminal program resulted in prison sentences totaling 256 years and close to \$95 million in fines and restitution from criminal violations. Violators paid \$125 million in civil penalties to the United States and an additional \$25.2 million to states. For more information, contact Betty Moore at bmoore@zephyrenv.com or 512.329.5544.

OSHA to Increase Enforcement in FY02: Focus on High-Hazard Jobs & Risks to Non-English Speaking Workers. In fiscal year 2002, OSHA will increase its enforcement efforts by targeting workplaces with higher-than-average injury and illness rates, and industries where non-English speaking workers are at greatest risk. OSHA recently notified about 13,000 employers that their injury and illness rates were higher than the national average of three injuries or illnesses resulting in lost work days or restricted activity for every 100 full-time workers. The employers being notified are listed on OSHA's web site at: http://www.osha.gov/as/opa/foia/hot_8.html. For more information, contact Elena Rivera at erivera@zephyrenv.com or 512.329.5544.

Historic Ozone Flex Agreement Signed. Through leadership provided by the Central Texas Clean Air Force, the five counties that comprise the Austin-San Marcos Metropolitan Statistical Area entered into the Nation's first Ozone Flex Agreement with EPA on March 28. The signing jurisdictions agreed to voluntarily reduce their VOC emissions by 2.3 tons per day and NO_x emissions by 6.7 tons per day by 2007. The signers gained the flexibility to choose air quality improvement measures that are consistent with their communities' needs and resources. In return, EPA agreed to defer a non-attainment designation until December 31, 2007, even if a violation of the 1-hour standard occurs. For more information, contact Art Bedrosian at abedrosian@zephyrenv.com or 512.329.5544.

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TNRCC Moves Closer to Regulating Greenhouse Gas Emissions. Responding to a directive by the Commissioners (see October 2000 *Currents*), Executive Director Jeffrey Saitas reported the results of the TNRCC's research on greenhouse gas (GHG) emissions in Texas. According to the January report, Texas has programs in place to reduce the kinds of emissions which contribute to global warming, but the effort should be expanded. The report provides detailed information on GHG emissions in Texas and programs that lead to their reduction. It concludes that the TNRCC has the authority under the Texas Clean Air Act to regulate GHGs. For more information, contact David Cabe at dcabe@zephyrenv.com or 512.329.5544.

TNRCC to Change Name. Beginning September 1, 2002, the TNRCC will formally change its name and begin doing business as the Texas Commission on Environmental Quality, or the TCEQ. The name change is required by the Sunset legislation, HB 2912. The Texas Legislature felt that the new name is shorter and gives people a better sense of the agency's purpose. The agency name change does not affect any previous permits, registrations, or other paperwork or transactions between the public and the TNRCC prior to September 1, 2002. For more information contact Tony R. St. Clair, P.E. at tstclair@zephyrenv.com or 512.329.5544.

Proposed UST Secondary Containment Regulations. A proposed rule to Chapter 214 of the Texas Administrative Code will require underground storage tanks (USTs) to have secondary containment if those tanks are located in the outcrop of a major aquifer composed of carbonate rocks of Cretaceous age or older and are located in Bexar or Comal Counties, Texas. Three sets of regulations apply to USTs regarding secondary containment. In cases where it is unclear as to which agency rules are applicable, the Executive Director will make a determination on a case-by-case basis. For more information, contact Betty Moore at bmoore@zephyrenv.com or 512.329.5544.

Proposed Amendment to RRC Statewide Rule 8. The Texas Railroad Commission (RRC) is proposing significant amendments to Statewide Rule 8, regarding Water Protection. The proposed new rules were published in the March 8 issue of the Texas Register and comments will be received by the RRC until April 22. The proposed changes to Rule 8 are intended to strengthen environmental protection rules with respect to the disposal of wastes, to relax permitting requirements for the disposal of waste with low environmental risk, and to set standards for a variety of waste management practices, e.g. discharges, landfarms, pits, and waste hauling. For more information, contact Betty Moore at bmoore@zephyrenv.com or 512.329.5544.

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